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Intel Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF FRANK BUSCH IN  
SUPPORT OF DEFENDANTS' JOINT  
ADMINISTRATIVE MOTION TO SEAL**

Date Consolidated Amended Compl. Filed:  
September 13, 2011

Master Docket No. 11-CV-2509-LHK

DECLARATION OF FRANK BUSCH IN SUPPORT OF  
DEFENDANTS' JOINT ADMINISTRATIVE MOTION TO SEAL.

1 I, Frank Busch, declare:

2 1. I am an attorney duly licensed to practice law in the State of California, and an  
3 associate at the firm of Bingham McCutchen LLP, attorneys for Defendant Intel Corporation  
4 (“Intel”). I have personal knowledge of the facts set forth herein, except those matters stated on  
5 information and belief. On behalf of Intel, I make this declaration pursuant to Civil Local Rule  
6 79-5 and 7-11(a) to demonstrate that good cause exists for the documents described below to  
7 remain under seal. I make this declaration in support of Defendants’ Joint Administrative  
8 Motion to Seal, filed concurrently with this Declaration. If called and sworn as a witness, I could  
9 and would competently testify to the matters stated below.

10 **The Intel Confidential Information That Should Be Sealed**

11 2. I have reviewed: (1) Defendants’ Joint Administrative Motion for Leave to Supplement  
12 the Record in Support of Defendants’ Opposition to Plaintiffs’ Motion for Class Certification  
13 (“Mot.”); and (2) the Supplemental Declaration of Professor Kevin M. Murphy in Support of  
14 Administrative Motion for Leave to Supplement the Record (“Murphy Supp. Decl.”), and  
15 exhibits thereto, that Defendants file concurrently with this declaration. As described below,  
16 these documents quote from and reference Intel’s employee compensation data, which is  
17 designated “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (“AEO”) pursuant to the  
18 Protective Order in this Action (Dkt. 107).

19 3. The types of information reflected in the data at issue here are similar to the types  
20 described in the Declaration of Tina M. Evangelista in Support of Plaintiffs’ Administrative  
21 Motion to File under Seal Plaintiffs’ Notice of Motion and Motion for Class Certification, and  
22 Memorandum of Law in Support, filed on October 9, 2012 (Dkt. 203) (“2012 Evangelista  
23 Declaration”). The relevant information is:

24 ***Compensation Data***

- 25 • The documents referenced above in paragraph 2 rely upon certain compensation  
26 and recruiting data produced by Intel in this action. All referenced data is  
27 designated AEO.

**The Reasons For Sealing The Redacted Information**

4. According to the 2012 Evangelista Declaration, and because the types of information contained in redacted portions of the above-referenced documents are similar to the types of information described therein, the following statements support the motion to seal:

5. The Intel data described above contains information regarding confidential business practices that gives Intel a competitive advantage in recruiting, retaining and compensating its employees.

6. Intel derives independent economic value from the strategic information, or raw data, contained in this compensation information not being generally known to the public or to other persons who can obtain economic value from its disclosure or use.

7. It is Intel's practice to treat this type of data as confidential, and not to disclose it outside the company. I am informed and believe that Intel has taken reasonable steps to ensure that this data remains confidential, including designating it AEO pursuant to the Protective Order filed in this Action.

8. Specifically, Intel seeks to seal the following Intel confidential, commercially sensitive information in the documents described above:

- **Mot. at page 2:1-8** reflects Intel's compensation data. In particular, the redacted statements describe compensation for an identified group of Intel employees, and the way that compensation has changed over time.
- **Murphy Supp. Decl. at page 2:8-12** reflects Intel's compensation data. In particular, the redacted statements describe identifying information about specific Intel employees including their position, age, gender, and tenure.
- **Murphy Supp. Decl. Exhibit A pages 1 through 3** reflects Intel's compensation data. In particular, the redacted statements list specific annual compensation, total compensation, and positions for a number of Intel employees between 2007 and 2011.

**The Particularized Harm Disclosure Would Cause**

9. According to the 2012 Evangelista Declaration, and because the types of information redacted from the above-referenced documents are similar to the types of

1 information described therein, Intel would suffer the following particularized harm if the  
2 redacted information is disclosed to the public. The public disclosure of the Intel confidential  
3 information contained in Intel's data described above, and reflected in the papers identified in  
4 paragraph 2, would put Intel at a significant competitive disadvantage in terms of its ability to  
5 identify, recruit, and compensate its employees. Public disclosure of Intel's detailed  
6 compensation data would also give those other companies an unearned advantage by giving them  
7 the benefit of Intel's compensation strategies, compensation levels, and other related  
8 information.

9 10. Because this information cannot be disclosed to the public without causing this  
10 harm, it should be protected by redacting it and each reference to it from public filings.

11 I declare under penalty of perjury that the foregoing is true and correct. Executed  
12 in Oklahoma City, Oklahoma on January 9, 2013.

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15 /s/ Frank Busch  
Frank Busch  
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